



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,420	09/16/2003	Ryuichi Iwamura	50T5576.02	2709

36738 7590 02/27/2007
ROGITZ & ASSOCIATES
750 B STREET
SUITE 3120
SAN DIEGO, CA 92101

EXAMINER

PHILIPPE, GIMS S

ART UNIT	PAPER NUMBER
----------	--------------

2621

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/663,420

Applicant(s)

IWAMURA ET AL.

Examiner

Gims S. Philippe

Art Unit

2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>10/29/04; 05/18/05</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

This is a first office action in response to application no. 10/663,420 filed September 16th 2003 in which claims 1-23 are presented for examination.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Moroney et al. (US Patent no. 5,949,795).

Regarding claims 1, 10, 16 and 20, Moroney discloses the same method, multimedia receiver, and system comprising a receive data buffer (See Moroney fig. 1, items 100 and 105, col. 5, lines 7-10), and a decoder assembly receiving data from the buffer for decoding thereof (See Moroney col. 5, lines 11-18, lines 55-58), the decoder assembly including a clock, a rate of the clock being established at least in part based upon how full of data the buffer is (See Moroney col. 5, 28-36, lines 58-67, and col. 6, lines 1-4).

Art Unit: 2621

As per claim 2, Moroney further discloses a non-isosynchronous network conveying multimedia to a receiver embodying the buffer and decoder assembly (See Moroney col. 3, lines 34-45).

As per claims 3-5, Moroney further formats the data in MPEG, and the rate is established at least in part by buffer level occupancy (See Moroney col. 3, lines 35-61, and col. 6, lines 32-50).

As per claims 6-9, 11-15, 17-19, and 21-23 most of the limitations of these claims have been noted in the above rejections of claims 1-5. In addition, Moroney further provides the same system wherein the time average buffer level occupancy is established in part at least based instantaneous buffer occupancy levels, and wherein the rate decreases in response to a determination that the buffer occupancy is relatively low and wherein the rate is increased in response to a determination that the buffer occupancy level is relatively high (See Moroney col. 6, lines 32-67, col. 7, lines 1-34 and col. 8, lines 37-54).

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Thomson et al. (US Patent no. 5526362) teaches control of receiver stations timing for time-stamped data.

Art Unit: 2621

Allen (US Patent no. 5652627) teaches system and method for reducing jitter in packet-based transmission network.

Nichols et al. (US Patent no. 6721328) teaches adaptive clock recovery for circuit emulation service.

Olson et al. (US Patent no. 6594316) teaches method and apparatus for adaptive bit rate control in an asynchronized encoding system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gims S. Philippe whose telephone number is (571) 272-7336. The examiner can normally be reached on M-F (10:30-7:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dastouri Mehrdad can be reached on (571) 272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2621

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Gims S Philippe
Primary Examiner
Art Unit 2621

GSP

February 13, 2007